

~~TOP SECRET//COMINT//NOFORN//X1~~

NATIONAL SECURITY AGENCY
CENTRAL SECURITY SERVICE
FORT GEORGE G. MEADE, MARYLAND 20755-6000

9 June 2004

MEMORANDUM FOR THE CHAIRMAN, INTELLIGENCE OVERSIGHT BOARD

THRU: Assistant to the Secretary of Defense (Intelligence Oversight)

SUBJECT: (U//~~FOUO~~) Report to the Intelligence Oversight Board on NSA
Activities - INFORMATION MEMORANDUM

(U//~~FOUO~~) Except as previously reported to you or the President, or otherwise stated in the enclosure, we have no reason to believe that any intelligence activities of the National Security Agency during the quarter ending 31 March 2004, were unlawful or contrary to Executive Order or Presidential Directive, and thus required to be reported pursuant to Section 1.7.(d) of Executive Order 12333.

(U//~~FOUO~~) The Inspector General and the General Counsel continue to exercise oversight of Agency activities by means of inspections, surveys, training, review of directives and guidelines, and advice and counsel. These activities and other data requested by the Board or members of the staff of the Assistant to the Secretary of Defense (Intelligence Oversight) are described in the enclosure.

A handwritten signature of Joel F. Brenner in black ink.

JOEL F. BRENNER
Inspector General

A handwritten signature of Robert L. Deitz in black ink.

ROBERT L. DEITZ
General Counsel

(U//~~FOUO~~) I concur in the report of the Inspector General and the General Counsel and hereby make it our combined report.

A handwritten signature of Michael V. Hayden in black ink.

MICHAEL V. HAYDEN
Lieutenant General, USAF
Director, NSA/Chief, CSS

Encl:

Approved for Release by NSA on 12-19-2014, FOIA Case # 70809 (Litigation)

Quarterly Report with NSA/CSS Policy 1-23

This Memorandum is Unclassified
Upon Removal of Enclosure

DERIVED FROM: NSA/CSSM 123-2
DATED: 24 FEB 98
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SECURITY CLASSIFICATION

NSA STAFF PROCESSING FORM

| | | |
|--|--|--|
| TO DIRECTOR | EXREG CONTROL NUMBER 91747 | KCC CONTROL NUMBER IG-10345-04 |
| THRU D/DIR , D SECRETARIAT | ACTION <input type="checkbox"/> APPROVAL <input checked="" type="checkbox"/> SIGNATURE <input type="checkbox"/> INFORMATION | EXREG SUSPENSE KCC SUSPENSE ELEMENT SUSPENSE |
| SUBJECT (U//FOUO) Quarterly Report to the Intelligence Oversight Board on NSA Activities-- Second Quarter FY04 | | |
| DISTRIBUTION JAN-MAR 04 | | |

SUMMARY

PURPOSE: (U//~~FOUO~~) To forward to the Intelligence Oversight Board (IOB) of the President's Foreign Intelligence Advisory Board, via the Assistant to the Secretary of Defense for Intelligence Oversight (ATSD(IO)), NSA's quarterly report on its intelligence activities.

BACKGROUND: (U//~~FOUO~~) Executive Order 12333 and Executive Order 12863 require Intelligence Community agency heads and Intelligence Community General Counsels and Inspectors General, respectively, to report to the IOB on a quarterly basis concerning intelligence activities that they have reason to believe may be unlawful or contrary to Executive Order or Presidential Directive. The enclosed memorandum covers all reportable activities known to the Inspector General and General Counsel. Per PIOB letter of 6 August 1982, Agency heads are responsible for reporting separately any additional reportable activities known to them, unless the President has specifically instructed that the Board is not to be informed. The Director's signature signifies that no other activities that require reporting are known to him.

RECOMMENDATION: (U) Director sign the enclosed memorandum.

This document may be declassified and marked "UNCLASSIFIED//~~For Official Use Only~~" upon removal of enclosure(s)

(b)(3)-P.L. 86-36

COORDINATION/APPROVAL

| OFFICE | NAME AND DATE | SECURE PHONE | OFFICE | NAME AND DATE | SECURE PHONE |
|---------|---|--------------|--------|------------------------|--------------|
| GC | Robert L. Deitz <i>[Signature]</i> 5/8/04 | 5548s | DCS | <i>[Signature]</i> 6/8 | 3201 |
| AGC(O) | <i>[Signature]</i> 6/4 | 3121s | | | |
| IG | Joel F. Brenner <i>[Signature]</i> | 3544s | | | |
| D/IG | | 3544s | | | |
| AIC(IO) | | 3544s | | | |

| | | | |
|----------------------------------|--------------------|-----------------------------------|-------------------------------------|
| ORIGINATOR <i>[Signature]</i> | ORG. D11 | PHONE (Secure) 963-2984 | DATE PREPARED 3 June 2004 |
|----------------------------------|--------------------|-----------------------------------|-------------------------------------|

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1. (U) INSPECTOR GENERAL ACTIVITIES

a. ~~(C//SI)~~ During this quarter, the Office of Inspector General (OIG) reviewed various intelligence activities of the National Security Agency/Central Security Service (NSA/CSS) to determine whether they were conducted in accordance with applicable statutes, Executive Orders (E.O.s), Attorney General procedures, and DoD and internal directives. With few exceptions, the issues presented were routine and indicated that the operating elements understand the restrictions on NSA/CSS activities.

b. ~~(S//SI)~~ The NSA OIG completed an inspection of the [REDACTED] (b)(3)-P.L. 86-36 [REDACTED] Division. The inspection found no intelligence oversight (I/O) shortcomings. The Division submits quarterly compliance reports to the Information Assurance Directorate. All employees participate in annual refresher training, which is tracked by division management.

c. ~~(TS//SI)~~ A joint investigation by the NSA and [REDACTED]

[REDACTED]

(b)(1)
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(b)(3)-50 USC 3024(i)
(b)(3)-18 USC 798

2. (U) GENERAL COUNSEL ACTIVITIES

~~(C//SI)~~ The NSA OGC reviewed various intelligence activities of the NSA/CSS to determine whether they were conducted in accordance with applicable statutes, E.O.s, Attorney General procedures, and DoD and internal directives. The OGC advised Agency elements on a number of questions, including the collection and dissemination of communications of or concerning U.S. persons; the reporting of possible violations of federal criminal law contained in SIGINT product; the testing of electronic equipment; and the applicability of the Foreign Intelligence Surveillance Act (FISA). With few exceptions, the issues presented were routine and indicated

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that the operating elements understand the restrictions on NSA/CSS activities. The OGC did not file any reports with the Intelligence Oversight Board during this quarter.

3. (U) SIGINT ACTIVITIES

a. ~~(S//SI)~~ Collection Against U.S. Persons

(1) (U) Intentional

~~(S//SI)~~ During this quarter, the DIRNSA granted approval for consensual collection against [] persons. DIRNSA-approved consensual collection against [] U.S. persons was routinely terminated this quarter.

(b)(1)
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~~(S//SI)~~ The Attorney General (AG) granted authority to collect the communications of [] U.S. persons during this quarter.

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(b)(3)-18 USC 798
(b)(3)-50 USC 3024(i)

(2) (U) Unintentional

a. ~~(TS//SI)~~ [] [] inadvertently targeted the [] holding dual U.S. [] citizenship. Upon learning of her status, [] in consultation with the OGC, detasked her number.

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(b)(3)-P.L. 86-36
(b)(3)-50 USC 3024(i)

b. ~~(TS//SI)~~ [] the [] learned that [] was a dual U.S. [] citizen. All numbers and collection associated with the official were removed from all systems. No collection related to this individual was disseminated. At the same time, [] identified [] other [] who are U.S. citizens, [] of whose numbers had been tasked for collection. The numbers were immediately detasked. There was no reporting on relevant collection, which also was destroyed.

(b)(1)
(b)(3)-P.L. 86-36

c. ~~(TS//SI)~~ SID inadvertently collected against a U.S. citizen abroad from []. When [] expired [] SID aborted what it thought to be all database queries related to him. However, when SID reinstated the queries after receiving [] it discovered that []. The office attributed the oversight to human error. No intercepts were obtained during this period.

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d. ~~(S//SI//NF)~~ This quarter, unintentional retrievals using the

[redacted] raw traffic files (b)(3)-P.L. 86-36

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(b)(3)-P.L. 86-36

resulted in [redacted] incidents against U.S. persons in addition to the incident involving the queries described in Paragraph c. above. All incidents were reported to responsible oversight officials and corrective actions were taken. All unauthorized traffic collected has been destroyed.

yes

b. ~~(U//FOUO)~~ Dissemination of U.S. Identities

(1) (U) Intentional

~~(S//SI)~~ In accordance with section 7 of USSID 18, U.S. identities were disseminated [redacted] times during this quarter. The following table shows the justification and the number of instances of dissemination: In the "Unmasked by Analyst" column, the U.S. identity was revealed in a serialized end product; in the "Unmasked at User Request" column, a U.S. identity was released to a user at the user's request.

| JUSTIFICATION | Unmasked by Analyst | Unmasked at User Request | TOTAL |
|----------------------------------|---------------------|--------------------------|-------------------|
| 7.2.c Necessary | | | (b)(1) |
| 7.2.c.1 Foreign Official | | | (b)(3)-P.L. 86-36 |
| 7.2.c.3 International Narcotics | | | |
| 7.2.c.4 Criminal Activity | | | |
| 7.2.c.7 U.S. Government Official | | | |
| TOTAL | | | |

(2) (U) Unintentional

~~(S//SI)~~ During this quarter, [redacted] SIGINT products were canceled by SID (b)(1) because they contained the identities of U.S. persons, organizations, or (b)(3)-P.L. 86-36 entities [redacted] of these related to [redacted] targets determined to be U.S. persons. Those products that contained information derived from communications of U.S. persons were not reissued.

~~(TS//SI)~~ [redacted] released a total of [redacted] reports containing the identities of USPs or based on the communications of persons later identified as USPs. In all instances, [redacted] cancelled the reports,

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(b)(3)-50 USC 3024(i)

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which were either not reissued or were reissued with the proper minimization.

(3) (U) Raw Traffic Dissemination Outside the SIGINT Production Chain

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(b)(3)-18 USC 798
(b)(3)-50 USC 3024(i)

a. (S//SI) [redacted] in response to an RFI from the [redacted]

[redacted]

(b)(1)
(b)(3)-P.L. 86-36

[redacted] released an e-mail outside the SIGINT production chain containing unminimized U.S. [redacted] telephone numbers. SID notified the [redacted] of the error, at which time the [redacted] deleted the files and issued a corrected email. To prevent future incidents, all personnel assigned to the [redacted] have received refresher training.

SID OTC
who initially
reported?

(b)(3)-P.L. 86-36

b. (S) [redacted] a member of the [redacted] sent an e-mail outside the SIGINT production chain

[redacted] Because some unauthorized individuals could have accessed the database, SID shut down the webpage to install a fix, [redacted]

SID

c. (S) [redacted] entered [redacted] information into a database, making it available through a [redacted] outside the SIGINT production chain. [redacted] interface users who were not authorized to view SIGINT information, may have accessed this information. Information from a SIGINT-only database containing [redacted] also may have been available through the interface, but it is not certain that users were able to see this information. Corrective measures have been taken.

(b)(3)-P.L. 86-36

SID

d. (S//SI) [redacted]

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(b)(3)-P.L. 86-36

[redacted]

[redacted] The SID ensures that the personnel are trained by the OGC on NSA's legal restrictions and on proper handling and dissemination of SIGINT data [redacted]

[redacted] Personnel working in or with SID during this quarter included representatives of the [redacted]

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4. (U) OTHER ACTIVITIES

(U//FOUO) FISA Incidents

a. (TS//SI//NF) [redacted] SID discovered [redacted] of transcripts [redacted] obtained from the [redacted] [redacted] that had been retained beyond the required destruction date. Some [redacted] transcripts [redacted] are involved. The OIG is investigating how [redacted] transcripts came to be retained, and will report the results of its investigation when it is complete.

b. (TS//SI//NF) [redacted] SID published a report containing information derived from [redacted] without the [redacted] caveat required by [redacted]. The SID found the report [redacted] while researching an unrelated issue in a database. Subsequent research revealed that the error occurred when appropriately cleared SID personnel with access to [redacted] forwarded the information to an unindoctrinated NSA subject matter expert [redacted] who was not aware of the source of the information. SID cancelled the report and reissued it with the caveat. Since this incident occurred because the expert had not received a briefing on [redacted] procedures have been implemented to brief everyone who might handle this material rather than only those who have access to the database containing [redacted].

OGA
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(U) Assistance to Law Enforcement

(S//SI) During this quarter, the SID approved requests for technical assistance from law enforcement, including requests from [redacted]

Assistance included [redacted]

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~~TOP SECRET//COMINT//NOFORN//X1~~**(U) Working Aids**

(U//~~FOUO~~) The SID maintains "U.S. Identities in SIGINT" and a matrix of blanket reporting waivers on its web page for use by all NSA/CSS analysts. The E.O., NSA/CSS Policy 1-23, DoD Regulation 5240.1-R, and USSID 18 are also available on-line. Several offices in SID maintain files to be used to prevent targeting of U.S. persons.

(U) Intelligence Oversight Training

a. (U//~~FOUO~~) In March 2004, SID implemented its new I/O training program, which allows employees to access the required documents and register their compliance on the web. The new program reminds employees that,

(U) "The primary document governing NSA's intelligence activities is Executive Order 12333. In addition, NSA employees are subject to DoD Regulation 5240.1-R . . . , which implement(s) the Executive Order. For SID employees, USSID 18 provides the SIGINT minimization procedures required by these documents and the Foreign Intelligence Surveillance Act. Finally, NSCID 6 defines SIGINT and prescribes the conduct of SIGINT activities."

b. (U//~~FOUO~~) In response to the December 2001 NSA OIG report, *Strategic Assessment of Intelligence Oversight*, Agency leadership revised NSA/CSS Directive 10-30, by including more detailed guidance about I/O training and quarterly reporting requirements. NSA issued the revised procedures as NSA/CSS Policy 1-23. A copy of the procedures is enclosed.

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